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DARWIN RECONSTRUCTION ACT 1975

No. 2 of 1975

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DARWIN RECONSTRUCTION ACT 1975

No. 2 of 1975

An Act to establish a Darwin Reconstruction Commission for purposes arising out of the Devastation of Darwin by Cyclone.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

PART I—PRELIMINARY

1. This Act may be cited as the *Darwin Reconstruction Act 1975*.¹ Short title.
2. This Act shall come into operation on the day on which it receives the Royal Assent.¹ Commencement.
3. (1) In this Act, unless the contrary intention appears— Interpretation.
 - "Acting General Manager" means a person appointed under section 34;
 - "approved bank" means the Reserve Bank of Australia or any other bank for the time being approved by the Treasurer;
 - "building" includes a structure;
 - "Chairman" means the Chairman of the Commission;
 - "Commission" means the Commission established by this Act;
 - "construction" includes reconstruction;
 - "Darwin Area" means that part of the Territory within a distance of 40 kilometres from the building known as the Darwin Post Office as existing at the commencement of this Act, and includes the land on which that building is erected;
 - "Deputy Chairman" means the Deputy Chairman of the Commission;
 - "General Manager" means the General Manager of the Commission;
 - "member" means a member of the Commission, and includes an Acting General Manager;
 - "part-time member" means a member appointed as a part-time member;
 - "prescribed period" means the period commencing on the date of commencement of this Act and ending on the date on which sub-section 4 (1) becomes applicable to the performance of the functions of the Commission;

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“public authority” means an authority established under the laws of Australia or of an internal Territory;

“the Territory” means the Northern Territory, and includes the territorial waters appertaining to that Territory.

(2) In this Act, a reference to erection of a building shall be read as including a reference to the making of structural repairs to a building or the restoration or connexion of any services to a building.

4. (1) After the expiration of 5 years from the date of commencement of this Act or after such date before that time as is fixed by Proclamation, the Commission established by this Act shall not perform any of its functions or exercise any of its powers except for the purposes of winding up its affairs.

(2) On a date to be fixed by Proclamation, not being earlier than the date on which sub-section (1) becomes applicable to the performance of the functions of the Commission, the Commission shall cease to exist.

(3) On the date fixed under sub-section (2)—

(a) any property or rights that, immediately before that date, were vested in the Commission shall, by force of this section, be vested in Australia; and

(b) any liabilities or obligations to which, immediately before that date, the Commission was subject, shall, by force of this section, become liabilities and obligations of Australia.

(4) If the Commission was a party to a contract or agreement immediately before the date fixed under sub-section (2), the contract or agreement shall continue in full force and effect but, in its operation on and after that date, shall have effect as if—

(a) Australia were substituted for the Commission as a party to the contract or agreement; and

(b) any reference in the contract or agreement to the Commission were a reference to Australia.

PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE DARWIN RECONSTRUCTION COMMISSION

5. There is established by this Act a Commission by the name of the Darwin Reconstruction Commission.

6. The functions of the Commission are, during the prescribed period and subject to and in accordance with this Act and the regulations—

(a) to assist the Australian Government in determining the desirable extent, nature and purposes of the reconstruction and development of the Darwin Area;

(b) to carry out planning in relation to development, construction and land use in the Darwin Area in accordance with any determinations of the Australian Government in respect of matters referred to in paragraph (a), and recommend to the Minister general planning and development schemes for the Darwin Area;

(c) to carry out, and to supervise, control and co-operate in the carrying out by other authorities and persons of, development and construction in the Darwin Area;

(d) to provide, and to arrange, co-ordinate and control the provision of, works, services, facilities and public utilities in the Darwin Area;

(e) to furnish to the Australian Government, through the Minister, advice with respect to matters relating to the expenditure of public and private moneys in and in connexion with development and construction in the Darwin Area and the co-ordination of that expenditure and with respect to other matters related to the functions of the Commission;

(f) to formulate proposals for the making of regulations under this Act; and

(g) such other functions in relation to Darwin and the Darwin Area as are conferred on it by this Act or the regulations.

7. All Departments of the Australian Government, and all public authorities, carrying on operations in the Darwin Area shall give to the Commission such assistance in the carrying out of its functions as is reasonably practicable.

Authorities to assist Commission in carrying out functions.

8. (1) The Commission may, from time to time, prepare proposals with respect to general planning and development schemes in relation to development and construction in the Darwin Area and shall cause those proposals to be made available for inspection by the public at all reasonable times in the Darwin Area, and in such other places as the Commission determines, for a period of one month.

Proposals and objection proposals for planning and development schemes.

(2) At any time during the period during which any proposals are made available for public inspection under sub-section (1), a person who has an interest in land in the Darwin Area that is affected by those proposals may object to the proposals.

(3) An objection under sub-section (2) shall be in writing, shall set out the reasons for the objection and shall be delivered or sent by post to the Commission.

(4) Where an objection is made under sub-section (2), the Commission may, by notice in writing sent to the person making the objection, afford that person an opportunity to make submissions to the Commission, either orally or in writing, in connexion with the objection, within such period as is specified by the Commission.

Schemes and programs for development and construction.

(5) After the expiration of the period within which a person may make submissions under sub-section (4) in connexion with an objection, the Commission may alter the proposals that are the subject of the objection in such manner as it thinks fit, and may recommend to the Minister that those proposals, or those proposals as so altered, be adopted.

9. (1) The Commission shall perform its functions in relation to development and construction in accordance with general planning and development schemes approved by the Minister, after considering any recommendations of the Commission under section 8, and all Departments of the Australian Government and public authorities shall comply with schemes so approved.

(2) The Commission shall, from time to time, submit to the Minister programs for development and construction in the Darwin Area in particular periods and shall submit such a program in respect of a particular period when so directed by the Minister.

(3) A program shall be in a form approved by the Minister and shall indicate the objectives which the Commission considers should be achieved during the period concerned and the nature and extent of public and private investment required to meet that objective.

Commission to comply with directions of Minister.

10. The Commission shall comply with any directions given to it by the Minister with respect to the performance of its functions or the exercise of its powers.

General powers of Commission.

11. The Commission may do all things necessary or convenient to be done for or in connexion with, or as incidental to, the performance of its functions.

Particular powers of Commission.

12. Without limiting the generality of section 11 but subject to this Act and the regulations, the Commission has power, for or in connexion with the performance of its functions—

- (a) to control and administer land vested in the Commission or placed under the control of the Commission;
- (b) to erect, repair or demolish buildings, make roads, plant or remove trees and perform other works;
- (c) to make contracts, including contracts for the performance of building or other work for other authorities or private persons;
- (d) to make use of agents;
- (e) to purchase or take on hire, and to dispose of or let out, plant, machinery, equipment or other goods;
- (f) to provide transport, accommodation, provisions and amenities for, and for the families of, officers and employees of the Commission or persons having contracts with the Commission;

- (g) to make charges for work done, or for services, materials or utilities rendered or provided by, the Commission; and
- (h) to do anything incidental to any of its powers.

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13. In the performance of its functions, the Commission shall give particular attention to the extent to which, and the manner in which, buildings and services in the Darwin Area should be made capable of resisting damage by cyclone. Speci atten cyclo prote

14. (1) The Minister may, by instrument under his hand, place under the control of the Commission any land in the Darwin Area that is the property of Australia and is not comprised in a lease granted to any person. Placi land contr Com

(2) In relation to any land under the control of the Commission by reason of this section—

- (a) the Commission is, subject to this section, empowered to occupy and manage the land and to carry out such works on, and make such use of, the land in the performance of its functions as it thinks fit; and
- (b) the Commission is not empowered to dispose of, or grant a lease of, the land, but the land shall not be disposed of, and a lease of the land shall not be granted, by Australia without the consent of the Commission.

(3) When the management or use of any land that has been placed under the control of the Commission under this section is no longer required by the Commission, the Commission shall, by instrument under its seal, surrender the control of the land to Australia.

(4) The Minister may revoke, in whole or in part, an instrument under sub-section (1).

15. (1) On and after a date to be fixed by the Minister by notice in the Gazette and before the expiration of the prescribed period, a person shall not, in the Darwin Area, commence, continue or complete the erection of a building or the performance on any land of works for the purposes of the erection of a building except with the approval of the Commission and in accordance with any conditions to which the approval is subject. Permi to ere build

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(2) An approval for the purposes of this section may be in respect of a particular building or work or in respect of a class of buildings or works.

(3) This section applies to the erection of buildings or the performance of work by or on behalf of Australia or a public authority, but does not render Australia or a public authority, or a person acting on behalf of Australia or of a public authority, liable to prosecution.

(4) The regulations may make provision for regulating or restricting the power of the Commission to grant or refuse approvals for the purposes of this section or for exemptions from the operation of this section, including provision with respect to building standards and requirements.

(5) The Commission may approve, and cause to be published, building codes or other rules, not inconsistent with any relevant regulations under this Act, for the guidance of persons seeking approval under this section.

(6) The erection of a building or the performance of work in accordance with an approval under this section shall be deemed to be not in contravention of any Ordinance of the Territory or any regulation or by-law under such an Ordinance.

(7) A person who contravenes sub-section (1) is guilty of an offence punishable by a penalty not exceeding \$1,000 or imprisonment for 3 months, or both.

(8) The Supreme Court of the Territory may, on the application of the Commission, grant injunctions, including mandatory and interlocutory injunctions, for securing compliance with, or arising out of any failure to comply with, the provisions of this section.

Entry and work on land.

16. (1) The Commission shall not, except as authorized by this section or the regulations or by any other law of Australia or of the Territory, or by agreement, enter on or perform work on land not owned or occupied by the Commission or by Australia or a public authority.

(2) For the purposes of public safety or sanitation, the Commission may, by its authorized servants, agents or contractors, enter on land referred to in sub-section (1) in the Darwin Area and demolish dangerous or damaged structures, remove debris, goods and materials, and perform work.

(3) The Commission may, by its authorized servants, agents or contractors, enter on land referred to in sub-section (1) for purposes related to the performance of the functions of the Commission in respect of other land and do work on the first-mentioned land.

(4) The Commission is liable to pay such reasonable compensation as is determined by agreement or by a court of competent jurisdiction for loss or damage resulting from the exercise of its powers under this section.

(5) A person shall not, without reasonable excuse, obstruct or hinder the exercise by the Commission or any other person of powers under this section.

Penalty for a contravention of sub-section (5): \$1,000 or imprison-

17. (1) The Commission may, by notice under the seal of the Commission, or a person authorized by writing under the seal of the Commission to give directions under this section may, by direction in writing specifying the reasons therefor, direct all or any persons or person to leave, or prohibit all or any persons or person from entering, premises in the Darwin Area that are in a dangerous condition or unfit for occupation and a person shall comply with any such direction that is applicable to him.

Penalty: \$1,000 or imprisonment for 3 months, or both.

(2) A person is not required to comply with the direction of an authorized person under this section unless the authorized person produces, if so required at the time of the giving of the direction, his authority in writing given to him by the Commission under this section.

PART III—CONSTITUTION AND MEETINGS OF THE COMMISSION

18. (1) The Commission—

- (a) is a body corporate with perpetual succession;
(b) shall have a common seal;
(c) may acquire, hold and dispose of real and personal property; and
(d) may sue and be sued in its corporate name.

Nature of Commission

(2) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall presume that it was duly affixed.

19. (1) The Commission shall consist of 8 members, namely—

- (a) a Chairman;
(b) a Deputy Chairman;
(c) the General Manager;
(d) 1 member nominated by the Legislative Assembly for the Territory;
(e) 1 member nominated by the Corporation of the City of Darwin;
(f) 1 member of the Darwin Citizens' Council; and
(g) 2 other members.

Member of Commission

(2) The members other than the member referred to in paragraph (1) (c) shall be appointed by the Governor-General as part-time members.

(3) The Commission may commence to perform its functions and exercise its powers when the Chairman and 3 other members have been appointed and the performance of the functions or the exercise of the

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powers of the Commission is not affected by reason only of there being a vacancy or vacancies in the membership of the Commission.

20. (1) A member referred to in paragraph 19 (1) (a), (b), (d), (e) or (f) shall be appointed for a period not exceeding 3 years, but is eligible for re-appointment.

(2) The members referred to in paragraph 19 (1) (g) hold office during the Governor-General's pleasure.

21. (1) A part-time member shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

(2) A part-time member shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act* 1973-1974.

22. A part-time member may resign his office by writing signed by him and delivered to the Governor-General.

23. (1) A member other than the Chairman may, with the approval of the Minister, appoint a person to be the deputy of the member and may, at any time, terminate an appointment so made by him.

(2) A person appointed under sub-section (1) may attend meetings of the Commission at which the member of whom he is the deputy is not present and, when so attending, shall be deemed to be a member.

(3) Sub-section (2) does not authorize a deputy of the General Manager to attend a meeting of the Commission at a time when there is an Acting General Manager.

(4) The appointment of a deputy of a member ceases to have effect if he resigns the appointment by writing signed by him and delivered to the member of whom he is the deputy.

(5) Where the appointment of a deputy of a member is terminated, the member shall give notice to the Minister of the termination, and the termination is not effective until notice of the termination is so given.

24. Where the Legislative Assembly for the Territory or the Corporation of the City of Darwin, by resolution, recommends to the Governor-General that the appointment of a part-time member nominated by it be terminated, the Governor-General shall terminate the appointment of that part-time member.

25. (1) The Governor-General may terminate the appointment of a member referred to in paragraph 19 (1) (a), (b), (d), (e) or (f) by reason of misbehaviour or physical or mental incapacity. Disc part-men

(2) If a member referred to in paragraph 19 (1) (a), (b), (d), (e), (f) or (g) —

(a) is absent, except with the approval of the Minister, from 3 consecutive meetings of the Commission;

(b) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(c) fails to comply with his obligations under section 26,

the Governor-General shall terminate the appointment of the member.

26. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Commission, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons and of which he is not a director, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission. Disc: inter-memr.

(2) A disclosure under sub-section (1) shall be recorded in the minutes of the Commission and the member —

(a) shall not take part after the disclosure in any deliberation or decision of the Commission with respect to the matter; and

(b) shall be disregarded for the purpose of constituting a quorum of the Commission for any such deliberation or decision.

27. The principal office of the Commission shall be at Darwin. Print office Com

28. (1) Subject to this section, the Chairman, or, if the Chairman is absent from Australia or, for any reason, is unable to perform the functions of his office, the Deputy Chairman, shall convene such meetings of the Commission as, in his opinion, are necessary for the efficient conduct of its affairs. Meet

(2) The Minister may convene a meeting of the Commission.

(3) The Chairman shall, on receipt of a request in writing signed by 3 members, convene a meeting of the Commission.

(4) Meetings shall be called by reasonable notice to all members of the Commission.

(5) At a meeting of the Commission, 4 members constitute a quorum.

(6) The Chairman shall preside at all meetings of the Commission at which he is present.

(7) In the event of the absence of the Chairman from a meeting of the Commission, the Deputy Chairman shall preside at that meeting.

(8) In the event of the absence of the Chairman and the Deputy Chairman from a meeting of the Commission, the members present shall appoint 1 of their number to preside at that meeting.

(9) A question arising at a meeting of the Commission shall be determined by a majority of the votes of the members present and voting.

(10) The member presiding at a meeting of the Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

PART IV—THE GENERAL MANAGER OF THE COMMISSION

General
Manager.

29. (1) There shall be a General Manager of the Commission who shall be appointed by the Governor-General.

(2) The General Manager shall be the executive member of the Commission and shall, subject to and in accordance with the directions of the Commission, conduct the affairs of the Commission.

(3) The General Manager holds office on such terms and conditions (if any), in respect of matters not provided for by this Act, as are determined by the Governor-General.

Period of
appointment
of General
Manager.

30. (1) The General Manager shall be appointed for such period, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

(2) A person who has attained the age of 65 years shall not be appointed or re-appointed as the General Manager and a person shall not be appointed or re-appointed as the General Manager for a period that extends beyond the date on which he will attain the age of 65 years.

Remuner-
ation and
allowances
of General
Manager.

31. (1) The General Manager shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

(2) The General Manager shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act 1973-1974*.

32. The Minister may grant leave of absence to the General Manager on such terms and conditions as to remuneration and otherwise as the Minister directs. Leave of absence of General Manager

33. The General Manager may resign his office by writing signed by him and delivered to the Governor-General. Resignation of General Manager

34. (1) The Minister may appoint a person to act as General Manager— Acting General Manager

- (a) during a vacancy in the office of General Manager, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the General Manager is absent from duty or from Australia or, for any other reason, is unable to perform the duties of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) The Minister may—

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of an Acting General Manager; and
- (b) at any time terminate such an appointment.

(3) Where a person is acting as General Manager in accordance with paragraph (1)(b) and the office of General Manager becomes vacant while that person is so acting, that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(4) The appointment of a person under sub-section (1) ceases to have effect if he resigns the appointment by writing signed by him and delivered to the Minister.

(5) While the appointment of a person under sub-section (1) remains in force, he has, and may exercise, all the powers and shall perform all the functions of the General Manager.

(6) The validity of anything done by a person appointed under this section shall not be called in question on the grounds that the occasion for his appointment had not arisen or that the appointment had ceased to have effect.

35. (1) The Governor-General may terminate the appointment of the General Manager for misbehaviour or physical or mental incapacity. Dismissal of General Manager

(2) If the General Manager—

- (a) engages in paid employment outside the duties of his office without the approval of the Minister;

- (b) is absent from duty, except on leave granted by the Minister, for 14 consecutive days or for 28 days in any 12 months;
- (c) is absent, except on leave granted by the Minister or with the approval of the Minister, from 3 consecutive meetings of the Commission;
- (d) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (e) fails to comply with his obligations under section 26,

the Governor-General shall terminate the appointment of the General Manager.

PART V—STAFF

36. (1) The Commission may appoint such officers and engage such employees as are necessary for the purposes of the performance of its functions.

(2) The terms and conditions of employment of persons appointed or engaged under sub-section (1), and any benefits provided by the Commission to or in respect of those persons that are related to those terms and conditions, shall be as determined by the Commission with the approval of the Public Service Board.

37. (1) Arrangements may be made between the Commission and the Minister administering any Department of the Australian Government, or with a public authority, for the services of officers or employees of the Department or of the public authority to be made available to the Commission.

(2) The Governor-General may enter into an arrangement with the Governor of a State for the services of officers or employees of the Public Service of the State or of a body established by an Act of the State to be made available to the Commission.

PART VI—FINANCE

38. (1) There are payable to the Commission such moneys as are appropriated by the Parliament for the purposes of the Commission.

(2) The Treasurer may give directions as to the amounts in which, and the times at which, moneys referred to in sub-section (1) are to be paid to the Commission.

39. (1) The Commission shall prepare estimates, in such form as the Minister directs, of its expenditure for each financial year and for such other period (if any) as the Minister directs and shall submit those estimates to the Minister not later than such date as the Minister directs.

(2) Moneys shall not be expended by the Commission otherwise than in accordance with the estimates of expenditure approved by the Minister.

40. (1) The Commission may open and maintain an account or accounts with an approved bank or approved banks and shall maintain at all times at least one such account.

(2) The Commission shall pay all moneys received by it into an account referred to in this section.

41. The moneys of the Commission shall be applied only—

- (a) in payment or discharge of the costs and expenses of the Commission under this Act; and
- (b) in payment of any remuneration and allowances payable to any person under this Act.

42. The Commission shall cause to be kept proper accounts and records of the transactions and affairs of the Commission and shall do all things necessary to ensure that all payments out of the moneys of the Commission are correctly made and properly authorized and that adequate control is maintained over the assets of, or in the custody of, the Commission and over the incurring of liabilities by the Commission.

43. (1) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the Commission and the records relating to assets of, or in the custody of, the Commission, and shall forthwith draw the attention of the Minister to any irregularity disclosed by the inspection and audit that, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

(2) The Auditor-General may, at his discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in sub-section (1).

(3) The Auditor-General shall, at least once in each financial year, report to the Minister the results of the inspection and audit carried out under sub-section (1).

(4) The Auditor-General or a person authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Commission relating directly or indirectly to the receipt or payment of moneys by the Commission, or to the acquisition, receipt, custody or disposal of assets, by the Commission.

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Public servants to assist Commission

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Exemption
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Darwin
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Council.

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appointment
of members
of Council.

(5) The Auditor-General or a person authorized by him may make copies of, or take extracts from, any such accounts, records, documents or papers.

(6) The Auditor-General or a person authorized by him may require a person to furnish him with such information in the possession of the person or to which the person has access as the Auditor-General or authorized person considers necessary for the purposes of the functions of the Auditor-General under this Act, and the person shall comply with the requirements.

(7) A person who contravenes sub-section (6) is guilty of an offence punishable, upon conviction, by a fine not exceeding \$200.

44. The Commission is not subject to taxation under any law of Australia or of a State or Territory.

PART VII—DARWIN CITIZENS' COUNCIL AND ADVISORY COMMITTEES

45. (1) During the prescribed period, there shall be a Council, to be known as the Darwin Citizens' Council, which shall consist of such number, not exceeding 20, of members as the Minister determines.

- (2) The functions of the Council are—
 - (a) where the Council thinks it desirable to do so, or at the request of the Commission, to give advice to the Commission in relation to any matter that is likely to affect the interests of persons who are or become resident in the Darwin Area and in relation to which the Commission may exercise its powers or perform its functions; and
 - (b) to give advice to the Commission on any matter referred to the Council by the Commission in connexion with the exercise of those powers, the performance of those functions or the operation of this Act.

(3) The Commission shall refer to the Council for advice any matter relating to the operation of this Act on which the Minister has requested the Commission to obtain the advice of the Council and, upon its receipt of that advice, the Commission shall transmit that advice to the Minister.

46. (1) Members of the Council shall be appointed by the Minister, after nominations have been called for in accordance with this section.

(2) As soon as practicable after the commencement of this Act and whenever there is a vacancy in the membership of the Council, the Commission shall, by notice published in a newspaper circulating in the Darwin Area and published, in each of the capital cities of the States, in a

- (a) invite nominations of persons for appointment to membership of the Council; and
- (b) specify the manner in which nominations may be made and the closing date for nominations.

(3) A nomination may be made by a community, church, business, trade union, sporting or other organization of Darwin citizens or by not less than 2 persons entitled to vote at elections for the Legislative Assembly for the Territory, and every person nominated shall be a person so entitled to vote.

(4) As soon as practicable after the closing date for nominations, the Commission shall furnish to the Minister particulars of the nominations duly made, together with recommendations of the Commission with respect to the appointment of persons so nominated to membership of the Council.

(5) A member of the Council shall be appointed for a period of 2 years, but his appointment may be terminated at any time by the Minister, after consultation with the Commission.

(6) A member of the Council may resign his office by writing signed by him and delivered to the Chairman or Deputy Chairman of the Commission or the General Manager, who shall notify the Minister of the resignation.

47. A member of the Council shall be paid such allowances, if any, for expenses as the Minister approves. Allowances.

48. (1) The members of the Council shall appoint a member of the Council to be the Chairman of the Council and shall appoint another member of the Council to be the Deputy Chairman of the Council. Chairman and Deputy Chairman of Council.

(2) Subject to sub-section (3), a person appointed under sub-section (1) holds office as Chairman of the Council or Deputy Chairman of the Council, as the case may be, until the expiration of his period of appointment as a member of the Council or until he sooner ceases to be a member of the Council.

(3) A person appointed under sub-section (1) may resign his office of Chairman of the Council or Deputy Chairman of the Council, as the case may be, by writing signed by him and presented to a meeting of the Council, and the appointment of such a person may be terminated at any time by resolution of the Council.

49. (1) The Chairman of the Commission or the General Manager, or a person appointed by the Chairman of the Commission or the General Manager to represent the Commission, may attend meetings of Meetings of Council.

(2) Meetings of the Council shall be held in public unless, in the case of a particular meeting, the Council is satisfied that special circumstances exist that justify the holding of the meeting otherwise than in public.

(3) The procedure of the Council shall be as determined by the Council.

Commission to provide assistance.

50. The Commission shall provide to the Council such accommodation and such secretarial and other assistance as are necessary for the proper conduct of the business of the Council.

Reports by Council.

51. (1) The Council shall, as soon as practicable after a meeting of the Council, prepare and furnish to the Commission a report of the proceedings of the meeting.

(2) The Council shall, as soon as practicable after 31 December in each year, prepare and furnish to the Commission a report of the operations of the Council during that year, which may include comments and recommendations relating to any matters concerning the operation of this Act.

(3) The Commission shall, as soon as practicable after its receipt of a report under this section, cause the report to be transmitted to the Minister.

Advisory Committees.

52. (1) The Minister may, at the request of the Commission, establish such committees as he thinks fit for the purpose of giving advice to the Commission in connexion with such matters as are referred to those committees by the Commission.

(2) A member of a committee shall be appointed by the Minister and holds office during the Minister's pleasure.

(3) The procedure of a committee shall, subject to any directions of the Minister, be as determined by the Committee.

PART VIII—MISCELLANEOUS

Consultants.

53. (1) The Commission may, with the approval of the Minister, engage persons having suitable qualifications and experience as consultants to the Commission.

(2) The terms and conditions of the engagement of a person under sub-section (1) are such as are determined by the Commission with the approval of the Minister.

54. (1) For the purposes of the determination of compensation under the *Lands Acquisition Act 1955-1973* in respect of the acquisition, by compulsory process, of land in the Darwin Area during the prescribed period, the value of the land at the date of acquisition shall be deemed to be not less than the amount that would have been the value of the land on 23 December 1974, if the improvements on the land on the last-mentioned date had been the same as, and in the same condition as, the improvements on the land at the date of acquisition.

Application of Lands Acquisition Act.

(2) Subject to sub-section (1), the regulations may provide for modifying the operation of the *Lands Acquisition Act 1955-1973* in relation to the acquisition of land in the Darwin Area during the prescribed period.

55. The Governor-General may, during the prescribed period, by order, declare that sub-section 18 (8) of the *Public Works Committee Act 1969-1974* is not to apply to a specified work in the Darwin Area.

Application of Public Works Committee Act.

56. The powers and functions of the Commission are not affected by the *Town Planning Ordinance 1964* of the Territory as amended from time to time and anything done by, or in accordance with approval given by, the Commission shall be deemed not to be a contravention of that Ordinance.

Non-application of Town Planning Ordinance.

57. (1) During the prescribed period—

- (a) a freehold or leasehold title to Crown land in the Darwin Area shall not be granted;
- (b) the conditions of such a title shall not be varied; and
- (c) an application for conversion of a title to Crown land from one form of tenure to another shall not be granted,

Grants of titles to Crown land &c

without the concurrence of the Commission.

(2) The Governor-General may, by Proclamation, declare that sub-section (1) is to cease to have effect, on a date specified in the Proclamation, in relation to land specified in the Proclamation, either generally or in respect of particular matters.

58. (1) The Commission shall, as soon as practicable after the end of each financial year, prepare and furnish to the Minister a report of the operations of the Commission during that year, together with financial statements in respect of that year in such form as the Treasurer approves.

Reports.

(2) The report shall set out all directions in respect of the performance of the functions or the exercise of the powers of the Commission given by the Minister to the Commission during the year to which the report relates.

(3) Before furnishing financial statements to the Minister, the Commission shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records;
- (c) whether the receipt and expenditure of moneys, and the acquisition and disposal of assets, by the Commission during the year have been in accordance with this Act; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

(4) The Minister shall cause the report and financial statements of the Commission, together with the report of the Auditor-General, to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister.

(5) The Commission shall prepare and furnish to the Minister such other reports of the operations of the Commission as the Minister requires.

Super-annuation.

59. (1) The Commission is an approved authority for the purposes of the *Superannuation Act 1922-1974*.

(2) For the purposes of sub-sections 4 (3A) and (4) of that Act, the General Manager shall be deemed to be required, by the terms of his appointment, to give the whole of his time to the duties of his office.

(3) For the purposes of that Act, the termination under this Act of the appointment of the General Manager by reason of physical or mental incapacity shall be deemed to be retirement on the ground of invalidity.

(4) Nothing in this Act authorizes the provision of superannuation benefits otherwise than under the *Superannuation Act 1922-1974* for a person appointed or employed under this Act.

Rights of public servants.

60. Where the General Manager or an officer or employee of the Commission was, immediately before his appointment or engagement, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act 1928-1973* applied—

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service under this Act shall be taken into account as if it were service in the Australian Public Service; and

... of this Act and this section had been specified

61. (1) The Commission may, either generally or otherwise as provided by the instrument of delegation, by writing under its common seal delegate to a member or another person any of the powers of the Commission except this power of delegation.

(2) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation and, when so exercised, shall, for the purposes of this Act, be deemed to have been exercised by the Commission.

(3) A delegation under this section is revocable at will and does not prevent the exercise of a power by the Commission.

62. (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for the carrying out or giving effect to this Act, or facilitating the performance by the Commission of its functions, and in particular—

- (a) for the procedure and other matters related to the formulation of planning and development schemes in connexion with development and construction in the Darwin Area and for securing the observance of such schemes;
- (b) for suspending or modifying, or adapting for the purposes of this Act, the operation of a law of the Territory dealing with a matter to which the functions or powers of the Commission relate;
- (c) for authorizing or requiring an authority established by, or a person holding office under, a law of the Territory to perform functions or duties for the purposes of this Act or the regulations;
- (d) making provision for and in relation to reviews and appeals (including appeals to the courts of the Territory) in respect of matters arising under this Act or the regulations; and
- (e) for prescribing penalties not exceeding \$1,000 or imprisonment for 3 months, or both, for offences against the regulations and, in addition, penalties not exceeding \$100 for each day during which a contravention of the regulations continues.

(2) Without limiting the generality of sub-section (1), provision shall be made by the regulations for and in relation to the payment of compensation by the Commission or by Australia in respect of matters to

(3) Regulations under this Act have effect notwithstanding anything inconsistent with those regulations contained in an Ordinance of the Territory or in an instrument under such an Ordinance, whether made before or after the commencement of this Act.

NOTE

1. Act No. 2, 1975; assented to 28 February 1975.

FISHERIES ACT 1975

No. 3 of 1975

An Act to amend the *Fisheries Act 1952-1973*.

BE IT ENACTED by the Queen, the Senate and the House Representatives of Australia, as follows:—

1. (1) This Act may be cited as the *Fisheries Act 1975*.¹

(2) The *Fisheries Act 1952-1973*² is in this Act referred to as Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as *Fisheries Act 1952-1975*.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹

3. Section 4 of the Principal Act is amended by inserting after definition of "officer" the following definition:—

"'private purposes' means purposes other than trading or manufacturing purposes;"

4. Section 10 of the Principal Act is amended—

(a) by inserting after paragraph (a) the following paragraph:—

"(aa) board or enter upon a boat that he has reason believe—

(i) is a foreign boat; and

(ii) has been used, is being used or is intended to be used for taking, catching or capturing fish for private purposes in the declared fish zone or for carrying or processing fish in zone,

and may search the boat for fish and for equipment used for taking, catching, capturing, processing or carrying fish;"

(b) by inserting after paragraph (b) the following paragraph:—

"(ba) examine any equipment found in or on a foreign boat which is being used, is being used or is intended to be used for taking, catching or capturing fish for private purposes"